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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/693,867	10/23/2000	Brooke Allysoun Armstrong	1914.0020000/DKSC/DRB	8657

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WASHINGTON, DC 20005

EXAMINER

VU, VIET DUY

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 02/17/2004

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/693,867

Applicant(s)

ARMSTRONG ET AL.

Examiner

Viet Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3,4 and 6-34 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,3,4 and 6-34 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Art Rejections:

1. The text of 35 U.S.C. § 103(a) cited in the previous office action is hereby incorporated by reference.

2. Claims 1, 3-4 and 6-30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Landsman et al, U.S. pat. No. 6,314,451.

Landsman discloses a system and method for providing rich media contents to a user over a network comprising:

a) determining media files and/or programs required to playback the media content delivered to user without a user request, i.e., advertisements (see col 27, lines 55-60),

b) transparently downloading into a local cache a version of the media content appropriate for the user to playback the content locally including a rich media file and an appropriate media player (col 27, lines 9-35),

c) displaying/playing the media content, i.e. ads, to the user in a designated display area after the media content has been completely downloaded (see col 27, line 66 - col 28, line 2).

Landsman also teaches utilizing program components that are already stored within the user's computer (see col 28, lines 10-16). Landsman does not explicitly teach the step of determining

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whether a particular program component has been resident in the user's computer, i.e., providing ability to playback the media content.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to recognize such determination step in Landsman because it would have enabled the system to reduce downloading unnecessary program components for the media content (see col 28, lines 10-16).

Per claim 10, Landsman teaches modifying and/or selecting version of media file that is suitable for user's computer (see col 27, lines 9-20).

Per claim 13, it is noted that a typical media player comprises controls for manipulating the content.

Per claims 18-19 and 30, it is also noted that many promotional advertisements include downloadable files that are encouraged for freely distributing.

Per claims 22-26, it would have been further obvious to one skilled in the art to practice Landsman's invention with any known types of client devices and/or communication networks.

3. Claims 31-34 are rejected under 35 U.S.C. § 103(a) as being unpatentable over MacInnis et al, U.S. pat. No. 5,951,639.

MacInnis discloses a method for playing rich media content provided over the network comprising:

- a) determining user's ability to play the media content, i.e., by referencing system configuration table (see col 4, lines 42-56),
- b) comparing user's ability against a schedule of media file versions/formats available on the network (col 5, lines 46-67),
- c) selecting a version of the media content that is best matched with the user's ability (see col 7, lines 1-12),
- d) downloading the entire selected media file into a local storage for playing the media content (see col 8, lines 10-19).

MacInnis does not explicitly teach ranking the file media format in a particular order. It would have been obvious to one of ordinary skill in the art at the time the invention was made to perform such version ranking step in MacInnis because it would have enabled the system to select best matched version for user's terminal more efficiently (see col 7, lines 1-12).

It would have been further obvious to one skilled in the art to practice MacInnis's invention with any known types of media content available on the networks.

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Response to Amendment:

4. Applicant's arguments filed on 1/9/04 with respect to claims 1, 3-4 and 6-34 have been fully considered but they are moot in view of new grounds of rejection set forth above.

Conclusion:

5. Applicant's amendment necessitated the new grounds of rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Vu whose telephone number is (703) 305-9597. The examiner can normally be reached on Monday through Friday from 7:00am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee, can be reached on (703) 305-8498.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.



VIET D. VU
PRIMARY EXAMINER

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2/12/04